

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**NORTH STAR SEAFOOD, LLC**

**and**

**INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS, LOCAL UNION  
NO. 769**

**Case Nos. 12-RC-233250**

**NORTH STAR SEAFOOD, LLC'S EMERGENCY REQUEST FOR REVIEW**

NOW COMES North Star Seafood, LLC (“North Star” or the “Employer”) and pursuant to Section 102.67 of the Board’s Rules and Regulations, files this Emergency Request for Review of the Regional Director’s decision to schedule a representation election just seven (7) business days after his Decision and Direction of Election, in the above-captioned case, and scheduling a ballot count for a manual ballot election to be held at the Region’s offices in Miami on the following date.<sup>1</sup> For the reasons set forth below, North Star submits the Region failed to comply with due process and fundamental fairness in announcing at 5:46 p.m. on February 4, 2019, that the election in this case will be held on February 13, 2019. Moreover, the Region has no basis for requiring the ballot count to take place on another day, subsequent to the manual ballot election, at the Region’s offices in Miami.

The Regional Director issued the Decision and Direction of Election providing a date for election that neither party requested or recommended. The date selected for the election appears to be a date selected merely for speed sake rather than a date to provide reasonable notice and the

---

<sup>1</sup>The filing of this Emergency Request for Appeal is without prejudice to North Star filing an appeal on other aspects of the Decision and Direction of the Election.

best opportunity for employees to vote. This fact is well illustrated by the Region scheduling the ballot count to take place at a subsequent date, at the Region's offices, in a manual ballot election involving only 25 eligible voters, and where the election ends at 12:30 p.m.

The Region's abuse of discretion in this case is precisely why the Board's election rules should be revised and exemplifies a problem identified in the dissenting opinion in *European Imports, Inc.*, "the time frame... unduly prejudices the parties and extinguishes the employees' right to have a reasonable period of time to become familiar with election issues." 13-RC-192428 (NLRB 2017) (Miscimarra dissenting) ("[T]his case illustrates the downside associated with the Rule's 'preoccupation with speed between petition-filing and the election.' The Election Rule adopts a single-minded standard regarding what date should be selected when Regional Directors schedule an election: every election must be scheduled for 'the *earliest date practicable*...") (emphasis in original).

Not only is the February 13, 2019 date within the 12 days provided for the production of the *Excelsior* list (2 days) and time permitted for the union's use (10 days) under the rules, but the date selected by the Regional Director is the day before Valentines Day. This date is one of the busiest business days at North Star, and the window of time allotted for voting may not allow all employees the right to vote. Moreover, the decision to not count the votes the same day of the election is unreasonable, not justified, not explained, and flatly ignores the employees' rights to a vote count following the manual election. At no point during the hearing did the hearing officer ask the parties' positions on having the ballots counted almost twenty-four hours after the voting period has ended. Moreover, there is no justification in the Decision and Direction of Election for counting the vote a day after the after the ballots have been cast and at a location over 35 miles removed from the parties and observers who will be present for the election.

For the reasons specified above, the Board should order the Regional Director to rescind the Decision and Direction of Election and set the election and ballot count on Friday, February 22, 2019.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, LLC**

By: \_\_\_\_\_

Mark M. Stubley

Charles Engeman

Attorney for North Star Seafood

Dated: February 5, 2019

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12**

**NORTH STAR SEAFOOD, LLC**

**and**

**INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS, LOCAL UNION  
NO. 769**

**Case Nos. 12-RC-233250**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Emergency Request for Review of the Regional Director's Decision has been served via email on the following on the date below by North Star Seafood, LLC:

Steven Barclay, Field Attorney  
National Labor Relations Board  
Region 12  
[Steven.Barclay@nrlb.gov](mailto:Steven.Barclay@nrlb.gov)  
***Via Email***


Ricardo Morillas  
National Labor Relations Board  
Region 12  
[Ricardo.Morillas@nrlb.gov](mailto:Ricardo.Morillas@nrlb.gov)  
***Via Email***

D. Marcus Braswell, Jr., Esq.  
Attorney for Teamsters Local 769  
[mbraswell@sugarmansusskind.com](mailto:mbraswell@sugarmansusskind.com)  
***Via Email***

David Cohen, Regional Director  
National Labor Relations Board  
Region 12  
[David.cohen@nrlb.gov](mailto:David.cohen@nrlb.gov)  
***Via Email***

Dated this 5th day of February, 2019.

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By:   
Mark M. Stubley  
Attorney for North Star Seafood, LLC